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10/735,404	12/12/2003	Elizabeth Davis	22104	2121

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EXAMINER

ROSSI, JESSICA

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/735,404

Applicant(s)

DAVIS ET AL.

Examiner

Jessica L. Rossi

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 1-18, 22 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-21, 23-27 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/26/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-18, drawn to a vessel device, classified in class 428, subclass 34.1.
  - II. Claims 19-29, drawn to a method for forming a vessel, classified in class 156, subclass 242.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product can be made by another and materially different process such as an injection molding.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
4. This application contains claims directed to the following patentably distinct species of the claimed invention: upon election of **Group II**, a further species election is required.

**Species A** (appears to be claims 22 and 28), drawn to disposing the plastic material by disposing a preform in the mold and pressurizing the preform to expand as shown in Figure 3c.

**Species B** (appears to be claims 23 and 29), drawn to disposing the plastic material by disposing a sheet over the mold and applying vacuum to the sheet as shown in Figure 6.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 19 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. During a telephone conversation with Mr. Hobson on 3/30/05 a provisional election was made without traverse to prosecute the invention of Group II and Species B, claims 19-21, 23-27 and 29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-18, 22 and 28 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Regarding claim 25, it recites the limitation "the step of disposing an attachment portion of a bondable layer" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim since there is no such step recited in claim 24. Applicant is asked to clarify. It is suggested to delete "an attachment portion of" from the claim.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 24-25 is rejected under 35 U.S.C. 102(b) as being anticipated by Bonnett (US 5194212; provided in IDS).

With respect to claim 24, the reference teaches forming a vessel (column 2, lines 5-7; column 4, lines 62-64) by disposing a bondable layer 14 against an inner surface of a mold to form a substantial enclosure, introducing a plastic material 44 into the mold and causing the plastic material to conform to the mold to form the substantial enclosure, causing the plastic material to embed into an exposed portion of the bondable layer (column 3, lines 57-58) and attaching the bondable layer to the substantial enclosure and removing the substantial enclosure with the bondable layer from the mold (Figures 1-4; column 3, lines 15-60).

Regarding claim 25, the reference teaches such.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 19-21, 23-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dallum et al. (US 5024342; provided in IDS) in view of the collective teachings of Bonnett, Freeman et al. (US 5258159; provided in IDS) and Sumner (US 4560607; provided in IDS):

*\*It is noted that the present invention is directed to having a fibrous "bonding layer" intermediate the plastic layer and reinforcement layer where the bonding layer serves to anchor the reinforcement layer to the plastic layer.*

With respect to claims 19, 24 and 26, Dallum teaches a method for making a vessel where a fibrous bonding layer 18 is located between plastic layer 14 and reinforcement layer 16

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(Figure 2; column 2, lines 23-38). The reference is silent as to the method steps for bonding the layers.

Bonding a combination of fibrous and plastic layers using a mold technique involving heating and pressing (blow molding, injection molding, compression molding) such that the plastic layer embeds into the fibrous layer is notoriously well known and conventional in the vessel art and a variety of other arts, as evidenced by Bonnett (see paragraph 11 above), Freeman (Figures 4-5; column 4, lines 42-65) and Sumner (column 1, lines 11-12; column 7, lines 1-5).

One reading Dallum as a whole would have appreciated that the reference is not concerned with how the layers are bonded and therefore would have been motivated to use a molding technique that involves Applicant's claimed method steps because such is known in the art, as taught by the collective teachings of Bonnett, Freeman and Sumner where such techniques eliminate the need for a mandrel.

Regarding claims 20-21, 25 and 27, Dallum teaches such (column 2, lines 36-38).

14. Claims 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dallum et al. and the collective teachings of Bonnett, Freeman et al. and Sumner as applied to claims 19 and 24 above, and further in view of Seemann (US 5316462; provided in IDS).

Regarding claims 23 and 29, it would have been obvious to use compression molding where a vacuum bag is used to press the plastic sheet over the mold having the bondable layer thereon because such is known in the compression molding art for bonding a combination of fibrous and plastic layers, as taught by Seeman, where such a molding technique allows for uniform pressure application and therefore eliminates air bubbles from between the layers.

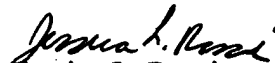
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine R. Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jessica L. Rossi  
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